

the loan account at the expiration of the final moratorium period.

(2) Delete § 1861.10(e)(2)(i) of this section.

(3) Incorporate § 1861.10(e)(2)(ii) as a last sentence in this section.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the are internal administrative changes not requiring publication for proposed rulemaking. Accordingly, §§ 1861.9(e) and 1861.10(e)(2) read as follows:

§ 1861.9 Definitions and other information on FO, SW, ORE, RH, LH, and SCH accounts.

(e) *Reamortizing direct and insured sections 502 and 504 RH accounts.* Reamortizing is to extend loan payments to the maximum repayment period, or to rearrange the payments within the remaining years of the original repayment period.

(1) Sections 502 and 504 RH loan accounts may be reamortized:

(i) When the borrower has made extra payments or refunds both totaling 10 percent or more of the loan being reamortized and the County Supervisor determines that the borrower cannot reasonably be expected to meet the obligation unless the account is reamortized to substantially reduce the annual or monthly installments, or

(ii) At the expiration of the final moratorium period in accordance with § 1861.10(e), or

(iii) When a section 502 or 504 RH loan or an FO, individual SW, RL, or EM loan for real estate purposes is being made to a presently indebted section 502 or 504 RH borrower and the loan approval official determines that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized.

(2) To reamortize the account, the following actions will be taken:

(i) Form FmHA 452-2, "Reamortization Agreement and/or Deferral Agreement," will be completed in accordance with the Forms Manual Insert.

(ii) If the note or assumption agreement (new terms) being reamortized is not held in the County Office, the County Supervisor will obtain the promissory note and any assumption agreement from the Finance Office before processing the reamortization.

(iii) On the back of the original of the note or assumption agreement (new terms) being reamortized, below all signatures and endorsements, the

County Supervisor, will insert the following:

"A reamortization agreement and/or deferral agreement dated _____ 19____, in the principal sum of \$_____, has been given to modify payment schedule of this note."

(iv) The end of the amortization period will be the final due date of the note being reamortized unless the due date is extended in accordance with § 1861.10(e).

(v) Interest rate for the account will be unchanged.

§ 1861.10 Moratorium on principal and interest payments on section 502 and 504 loans.

(e) *Action at the expiration of the final moratorium period.* * * *

(2) The County Supervisor, after a determination concerning the cancellation of interest has been made, will complete Form FmHA 452-2 if the account is to be reamortized or Form FmHA 451-37 if reamortization is not planned. If Form FmHA 451-37 is submitted to the Finance Office, the County Supervisor will appropriately change County Office records to reflect the amount of the new installments.

(7 U.S.C. 1889; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.270.)

NOTE.—The FmHA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 5, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-13594 Filed 5-18-78; 8:45 am]

[3410-02]

[Lemon Reg. 145; Amdt. 1; Lemon Reg. 146]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period May 21-27, 1978, and increases the quantity of such lemons that may be so shipped during the period May 14-20, 1978. Such action is needed to provide for orderly marketing of fresh lemons for

the periods specified due to the marketing situations confronting the lemon industry.

DATES: The regulation becomes effective May 21, 1978 and the amendment is effective for the period May 14-20, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION:

Findings. Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 16, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons seems advisable to be handled during the specified weeks. The committee reports the demand for lemons continues good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.446 Lemon Regulation 146.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 21, 1978, through May 27, 1978, is established at 300,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

Paragrah (a) of § 910.445 Lemon Regulation 145 (43 FR 20475) is amended to read as follows: "The quantity of lemons grown in Califor-

nia and Arizona which may be handled during the period May 14, 1978, through May 20, 1978, is established at 315,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: May 17, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-14121 Filed 5-18-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Change in Disease Status of Malta Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document designates Malta as a country in which African swine fever, a contagious and infectious disease of swine, exists. Notice has been received that an outbreak of African swine fever has occurred in Malta. The intended effect of this amendment is to restrict the entry of pork and pork products from Malta in order to protect the livestock of the United States.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. James D. Roswurm, USDA, APHIS, VS, Room 819, Federal Building, Hyattsville, Md. 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION: African swine fever is potentially the most dangerous and destructive of all communicable swine diseases. The causative virus of African swine fever is highly virulent and may be present in pork and pork products originating in countries where the disease exists. The only known practical method of destroying the contagion of the disease in pork and pork products is by heat treatment.

The Department has been informed that Malta has announced that Afri-

can swine fever exists in that country. Therefore, this document amends the regulations (9 CFR 94.8) to designate Malta as a country in which African swine fever exists. This designation restricts the entry of pork and pork products from Malta to those pork and pork products which have been commercially sterilized by heat in hermetically sealed containers or which are allowed controlled entry into the United States for further processing by heat.

Accordingly, Part 94, Title 9, Code of Federal Regulations is hereby amended in the following respect:

§ 94.8 Pork and pork products from countries where African swine fever exists.

In 94.8, in the introductory paragraph, the name of Malta is added after the reference to "Italy."

(Sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); 37 FR 28464, 28477; 38 FR 19141.)

This amendment is of an emergency nature and must be made effective immediately to protect the livestock of the United States against the introduction of African swine fever from Malta, except with respect to intransit shipments of pork and pork products that are on board a carrier moving to the United States at the time of issuance hereof. Such intransit shipments shall, upon arrival in the United States, be allowed entry only under such specific requirements or be disposed of in such manner as the Administrator may determine in each specific case to be necessary and adequate to safeguard against the introduction or dissemination of African swine fever into the United States. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of May 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-13520 Filed 5-18-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to the Nuclear Non-Proliferation Act of 1978 (NNPA), the Nuclear Regulatory Commission (NRC) has amended its export/import regulations (10 CFR Part 110). The amended regulations incorporate the new export criteria mandated by the NNPA to govern exports of nuclear facilities, source material and special nuclear material for peaceful nuclear uses. Consistent with the NNPA, the amended regulations would also provide for NRC export control authority over nuclear facility components and other nuclear items and substances having possible significance for nuclear explosive uses. Because the NNPA requires the Commission to promulgate regulations within a short time frame, the amendments are being made effective immediately. However, the Commission is soliciting public comments with a view to further amending Part 110 to incorporate public views if warranted.

DATES: Effective date: May 19, 1978. Comments should be submitted by July 8, 1978.

ADDRESSES: Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Joanna M. Becker, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 492-7630, or Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 492-8155.

SUPPLEMENTARY INFORMATION: On February 17, 1978, NRC published at 43 FR 6915 a new Part 110 to Chapter 1, Title 10 of the Code of Federal Regulations, entitled "Export and Import of Nuclear Facilities and Materials." This part, which became effective on May 3, 1978, codified in one place NRC's export and import regula-

tions and contained special provisions for public participation in NRC's export and import licensing review process. Part 110 did not contain any major substantive revisions to the standards and procedures for granting or denying export license applications, since these areas were still undergoing consideration by the Congress, the Executive Branch, and NRC.

On March 10, 1978, the President signed the Nuclear Non-Proliferation Act of 1978 (NNPA), which specifically addresses export licensing procedures and criteria. The NNPA directs NRC to promulgate revised export control regulations incorporating the major portion of the Act's requirements by July 7, 1978, and new regulations covering physical security standards by May 9, 1978. NRC has chosen to promulgate both portions of its amended regulations simultaneously.

Although many sections of Part 110 are unchanged by the new amendments, both substantive and format changes are made in various parts of Part 110. It is therefore being republished in its entirety for the convenience of the public.

SUMMARY OF REGULATIONS

The major changes to Part 110 are summarized below in the order in which they appear:

1. § 110.1. The scope of Part 110 has been expanded to cover the additional material and equipment transferred to NRC's export control authority from the Department of Commerce pursuant to section 109 of the Atomic Energy Act and also to give NRC authority to license exports of the Department of Energy upon application by that Department. A new Appendix A has been added to provide the public with a detailed list of all equipment and material under NRC's export and import control authority. The statutory criterion for selecting "components," "items" and "substances" referenced in amended section 109 of the Atomic Energy Act for Commission licensing is that of "especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes." The components, items and substances chosen are essentially those on the Nuclear Suppliers' Group and IAEA Zangger Committee trigger lists, thus reflecting an international consensus on items considered to be significant for nuclear explosive uses. To avoid problems associated with dual licensing authorities, agreement has also been reached with the Commerce Department that all specially designed components for nuclear reactors will be transferred to NRC's export control authority. This will enable exporters to apply to one agency for all proposed exports of nuclear reactor components.

2. § 110.2. New definitions have been added for deuterium, high and low-en-

riched uranium, nuclear equipment, nuclear-grade graphite, nuclear material, physical security and production facility. The "utilization facility" definition has been changed so that "utilization facility" now means either a complete nuclear reactor, a reactor pressure vessel, a primary coolant pump, a control rod or a nuclear fuel charging or discharging machine. These definition changes are primarily related to NRC's expanded export licensing authority. The new definition of "utilization facility" has the effect of bringing within that definition certain components "especially designed" for a utilization facility as permitted by section 11 cc of the Atomic Energy Act. The components chosen are deemed to be especially critical for the functioning of a utilization facility.

3. § 110.6. This section has been retitled "Retransfers" to conform with the language in the NNPA.

4. § 110.11. The exemption in § 110.11 for Department of Energy prime contractors has been deleted, as further review indicated no need for its inclusion. It has been replaced by a new exemption for imports of nuclear equipment, source material and byproduct material by licensees authorized to possess such equipment or material under another exemption or a specific or general license issued by the Commission or an Agreement State. Except for nuclear equipment, the import license exemptions were previously covered by the general license in § 110.25.

5. § 110.25 and § 110.26. These sections provide new general licenses for exports of small quantities of deuterium (including heavy water) and nuclear grade graphite.

6. Subpart E. This Subpart has been extensively revised and expanded to incorporate the new export criteria mandated by the NNPA and the related procedures pertaining to the review of export license applications. The new export criteria are listed in § 110.42.

Section 110.43 sets out the physical security standards, amplifying the new physical security criterion in § 110.42(a)(3). The physical security standard which will be used in acting upon applications for licenses to export facilities, special nuclear material and source material is specified as, at a minimum, protection comparable to that set forth in International Atomic Energy Agency publication INFCIRC/225, Rev. 1. The measures recommended in that publication are international guidelines to which the United States subscribes, whose use is permitted by section 304(d) of the Nuclear Non-Proliferation Act of 1978. In the Commission's judgment such levels of physical security will provide adequate protection for the facilities and materials to which they must be

applied as provided by section 127(3) of the Atomic Energy Act.

The Commission notes that, in evaluating whether the physical security program established by the recipient country meets the physical security standards of § 110.43, the staff will consider for Category I materials (see Appendix C to Part 110) the following essential elements, or their equivalent:

(i) Storage of materials in areas which provide penetration resistance and delay;

(ii) Protection of processing and storage areas with intrusion alarm system;

(iii) 24-hour armed security force (or an unarmed security force if a national or regional emergency plan has been established that will ensure immediate wide scale alert and response by armed police or other government agencies);

(iv) Armed offsite forces capable of response;

(v) Independent duplicated transmission system for two-way voice communication;

(vi) Procedures to control access to and to provide continuing surveillance in material storage and processing areas;

(vii) Protection of transport by escorts or guards to be armed if armed emergency teams are not available for timely response to prevent attempted theft and facilitate recovery;

(viii) Transport in vehicles equipped with communications capable of calling for assistance from the local police or emergency team;

(ix) A program for determining trustworthiness of guards and individuals who have access to nuclear materials.

The Commission also notes that the staff will consider any potential threats to nuclear activities within the recipient country.

Section 110.44 sets out the basic statutory findings NRC must make before issuing an export or import license and provides for referral of export license applications to the President if NRC is unable to make the requisite findings.

7. § 110.51. This section has been revised to indicate that changes in the value of nuclear equipment authorized for export do not require a license amendment.

8. § 110.80. This section provides that the procedures in Part 110 will constitute the sole basis for hearings on export license applications. Those procedures have not been substantially changed except for the addition of criteria to be used in determining whether to grant leave to intervene or hold a hearing in export licensing proceedings mandated by section 304(b) of the NNPA as follows:

(1) Whether intervention or a hearing would be in the public interest and

(2) Whether intervention or a hearing would assist the Commission in

making the statutory determinations required by the Atomic Energy Act.

The Commission intends to develop a new general license for the export of nuclear equipment to approved nuclear facilities abroad. Section 110.21 has been reserved for such a general license, which would be the subject of a notice of proposed rule making to be published at a later date.

Other revisions of an editorial nature have been made to Part 110. Although revised Part 110 is effective immediately, the Commission and the Commerce Department have agreed that the transfer of export licensing responsibility for items currently licensed by the Commerce Department will take place July 8, which will permit a more orderly transfer of responsibilities and result in less disruption to licensee export activities. The items involved are those listed in Appendix A, paragraphs (a)(1) through (a)(9); paragraphs (b)(1) through (b)(7); paragraphs (c)(1) through (c)(6); and paragraphs (d), (e), (f), and (j). Applications for the export of the items covered by these paragraphs will be accepted by the Department of Commerce through July 7, 1978, after which license applications shall be submitted to NRC. Prospective applicants may obtain NRC export license application forms from the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Because the NNPA mandates that the amendments required by that Act be promulgated within a time period that does not permit publication of a notice of proposed rule making and public procedure thereon, the Commission has found that such notice and public procedure are impracticable and that good cause exists for making revised Part 110 effective without the customary 30-day notice. The Commission invites all interested persons who desire to submit written comments or suggestions for consideration in connection with revised Part 110 to send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments should be submitted by July 8, 1978. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 as amended, the Nuclear Non-Proliferation Act of 1978 and Sections 552 and 553 of Title 5 of the United States Code, the revised Part 110 of Title 10, Chapter 1, Code of Federal Regulations is published as a document subject to codification.

Part 110 is revised to read as follows:

Subpart A—General Provisions

- Sec.
- 110.1 Purpose and scope.
- 110.2 Definitions.
- 110.3 Interpretations.
- 110.4 Communications.
- 110.5 License requirements.
- 110.6 Retransfers.

Subpart B—Exemptions

- 110.10 General.
- 110.11 Import of nuclear equipment, source material and byproduct material.
- 110.12 Intergovernmental cooperative activities.
- 110.13 Export of byproduct material.

Subpart C—General Licenses

- 110.20 General.
- 110.21 Export of nuclear equipment. [Reserved]
- 110.22 Export of special nuclear material. [Reserved]
- 110.23 Export of source material.
- 110.24 Export of byproduct material.
- 110.25 Export of deuterium.
- 110.26 Export of nuclear grade graphite.
- 110.27 Restricted destinations.

Subpart D—Applications for Specific Licenses

- 110.30 Filing a license application.
- 110.31 General requirements for an export license application.
- 110.32 Additional requirements for a nuclear equipment export license application.
- 110.33 Additional requirements for a nuclear material export license application.
- 110.34 Requirements for an import license application.
- 110.35 Further information from a license applicant.
- 110.36 Withdrawal of a license application.

Subpart E—Review of License Applications

- 110.40 Commission review.
- 110.41 Executive Branch review.
- 110.42 Export licensing criteria.
- 110.43 Physical security standards.
- 110.44 Issuance or denial of licenses.

Subpart F—License Terms and Related Provisions

- 110.50 Terms.
- 110.51 Amendments.
- 110.52 Revocation, suspension, and modification.
- 110.53 United States address, records, and inspections.

Subpart G—Violations and Enforcement

- 110.60 Violations.
- 110.61 Notice of violation.
- 110.62 Order to show cause.
- 110.63 Order for revocation, suspension, or modification.
- 110.64 Civil penalty.
- 110.65 Settlement and compromise.
- 110.66 Enforcement hearing.

Subpart H—Public Notification and Availability of Documents and Records

- 110.70 Notice of receipt of an application.
- 110.71 Notice of withdrawal of an application.
- 110.72 Availability of documents in the Public Document Room.
- 110.73 Availability of NRC records.

Subpart I—Public Participation Procedures Concerning License Applications

- Sec.
- 110.80 Basis for hearings.
- 110.81 Written comments.
- 110.82 Hearing request or intervention petition.
- 110.83 Answers and replies.
- 110.84 Commission action on a hearing request or intervention petition.
- 110.85 Notice of hearing consisting of written comments.
- 110.86 Notice of oral hearing.
- 110.87 Conditions in a notice or order.
- 110.88 Authority of the Secretary.
- 110.89 Filing and service.
- 110.90 Computation of time.
- 110.91 Commission consultations.

Subpart J—Hearings

- 110.100 Public hearings.
- 110.101 Filing and service.
- 110.102 Hearing docket.
- 110.103 Acceptance of hearing documents.
- 110.104 Presiding officer.
- 110.105 Responsibility and power of the presiding officer in an oral hearing.
- 110.106 Participation in a hearing.
- 110.107 Presentation of testimony in an oral hearing.
- 110.108 Appearance in an oral hearing.
- 110.109 Motions and requests.
- 110.110 Default.
- 110.111 Waiver of a rule or regulation.
- 110.112 Reporter and transcript for an oral hearing.
- 110.113 Commission action.

Subpart K—Special Procedures for Classified Information in Hearings

- 110.120 Purpose and scope.
- 110.121 Security clearances and access to classified information.
- 110.122 Classification assistance.
- 110.123 Notice of intent to introduce classified information.
- 110.124 Rearrangement or suspension of a hearing.
- 110.125 Unclassified statements required.
- 110.126 Protection of classified information.

Subpart L—Rule Making

- 110.130 Initiation of rule making.
- 110.131 Petition for rule making.
- 110.132 Commission action on a petition.
- 110.133 Notice of proposed rule making.
- 110.134 Public participation.
- 110.135 Notice of rule making.

APPENDIX A—List of nuclear equipment and material under NRC export/import licensing authority.

APPENDIX B—List of foreign facilities to which nuclear equipment may be exported pursuant to the general license in § 110.21 [Reserved].

APPENDIX C—Categorization of nuclear material.

AUTHORITY—Secs. 51, 53, 54, 62, 63, 64, 65, 81, 82, 103, 104, 109, 126, 127, 128, 129, 161, 181, 182, 183, 189, Pub. L. 83-703, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 954, 956; Pub. L. 88-489, 78 Stat. 603, 604; Pub. L. 91-560, 84 Stat. 1472; 70 Stat. 1070; Pub. L. 85-256, 71 Stat. 579; Pub. L. 87-615, 76 Stat. 409; Pub. L. 93-377, 88 Stat. 473, 475, Pub. L. 95-242, 92 Stat. 125, 126, 131-139, 141 (42 U.S.C. 2071, 2073, 2074, 2077, 2092-2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2154-2158, 2201, 2231-2233, 2239); Secs. 201, 206, Pub. L. 93-438, 88 Stat. 1242, 1246; Pub. L.

94-79, 89 Stat. 413-414 (42 U.S.C. 5841, 5842, 5846).

§ 110.51 also issued under Sec. 184, Pub. L. 83-703, 68 Stat. 954; Pub. L. 88-489, 78 Stat. 607 (42 U.S.C. 2234).

§ 110.52 also issued under Sec. 186, Pub. L. 83-703, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of Sec. 223, Pub. L. 83-703, 68 Stat. 958, Pub. L. 90-190, 81 Stat. 578; Pub. L. 91-161, 83 Stat. 445 (42 U.S.C. 2273); §§ 110.50 and 119.120-110.126 also issued under Sec. 161i, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201(i)).

§ 110.53 also issued under Sec. 161o, Pub. L. 83-703, 68 Stat. 950, Pub. L. 85-507, 72 Stat. 337 (42 U.S.C. 2201(o)).

§§ 110-80-110.113 also issued under 5 U.S.C. 552, 554.

§§ 110.130-110.135 also issued under 5 U.S.C. 553.

Subpart A—General Provisions

§ 110.1 Purpose and scope.

(a) These regulations prescribe procedures and standards, pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974, as amended, for the export and import of nuclear equipment and nuclear material as set out in Appendix A.

(b) Except as provided in paragraph (c), the regulations in this part apply to all persons in the United States, including persons in Agreement States.

(c) These regulations do not apply to the export or import of nuclear equipment, material or technology by the Departments of Energy or Defense under the authority of sections 54, 57b., 64, 82, 91, and 144b. and 144c. of the Atomic Energy Act, as amended, except when the Department of Energy seeks an export license pursuant to section 111 of the Atomic Energy Act.

§ 110.2 Definitions.

As used in this part,

(a) "Agreement for cooperation" means any agreement with another nation or group of nations concluded under section 123 of the Atomic Energy Act, as amended.

(b) "Agreement State" means any State of the United States with which the Nuclear Regulatory Commission, or its predecessor, the Atomic Energy Commission, has entered into an agreement under section 274b. of the Atomic Energy Act, as amended.

(c) "Atomic Energy Act" means the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011).

(d) "Byproduct material" means radioactive material (except special nuclear material) produced by exposure to the radiation incident to the process of producing or using special nuclear material.

(e) "Classified information" means National Security Information classified pursuant to Executive Order No. 11652 or any superseding order.

(f) "Commission" means the United States Nuclear Regulatory Commission or its duly authorized representatives.

(g) "Common defense and security" means the common defense and security of the United States.

(h) "Depleted uranium" means uranium in which the isotope uranium-235 is less than 0.711 percent by weight of the total uranium present.

(i) "Deuterium" means deuterium and any deuterium compound, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

(j) "Effective kilograms of special nuclear material" means:

(1) For plutonium and uranium-233, their weight in kilograms;

(2) For uranium enriched 1 percent or greater in the isotope U-235, its element weight in kilograms multiplied by the square of its enrichment expressed as a decimal weight fraction; and

(3) For uranium enriched below 1 percent in the isotope U-235, its element weight in kilograms multiplied by 0.0001.

(k) "Energy Reorganization Act" means the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801).

(l) "Executive Branch" means the Departments of State, Energy, Defense and Commerce and the Arms Control and Disarmament Agency.

(m) "Export" means export from the United States.

(n) "general license" means an export or import license effective without the filing of a specific application with the Commission or the issuance of licensing documents to a particular person.

(o) "Government agency" means any Federal department, commission, independent establishment, or corporation, wholly or partly owned by the United States and which is an instrumentality of the United States.

(p) "High-enriched uranium" means uranium enriched to 20 percent or greater in the isotope uranium-235.

(q) "Import" means import into the United States.

(r) The phrase "introduced into a hearing" means the introduction or incorporation of testimony or documentary matter into the record of a hearing.

(s) "License" means a general or specific export or import license issued pursuant to this part.

(t) "Licensee" means a person authorized by a specific or a general license to export or import nuclear equipment or material pursuant to this part.

(u) "Low-enriched uranium" means uranium enriched below 20 percent in the isotope uranium-235.

(v) "Non-nuclear weapon State" means any State not a nuclear weapon

State as defined in the Treaty on the Non-Proliferation of Nuclear Weapons. "Nuclear weapon State" means any State which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

(w) "Non-Proliferation Act" means the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95-242).

(x) "NRC records" means any documentary material made by, in the possession of, or under the control of the Commission under Federal law or in connection with the transaction of public business as evidence of any of the Commission's activities.

(y) "Nuclear equipment" means production facilities, utilization facilities, deuterium production plants, nuclear reactor fuel fabrication plants and specially designed or prepared equipment, parts and components for such facilities or plants as specified in paragraphs a. through e. of Appendix A.

(z) "Nuclear grade graphite" means graphite with a boron content of less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

(aa) "Nuclear material" means special nuclear material, source material, byproduct material, deuterium and nuclear grade graphite.

(bb) "Nuclear reactor" means an apparatus, other than an atomic weapon or nuclear explosive device, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(cc) "Packaging" means one or more receptacles and wrappers and their contents, excluding any special nuclear material, source material or byproduct material, but including absorbent material, spacing structures, thermal insulation, radiation shielding, devices for cooling and for absorbing mechanical shock, external fittings, neutron moderators, nonfissile neutron absorbers and other supplementary equipment.

(dd) "Participant" means a person, identified in a hearing notice or other Commission order, who takes part in a hearing conducted by the Commission under this part, including any person to whom the Commission grants a hearing or leave to intervene in an export or import licensing hearing, either as a matter of right or as a matter of discretion.

(ee) "Person" means any individual, corporation, partnership, firm, association, trust, estate, institution, group, Government agency other than the Commission; any State or political entity within a State; any foreign government or political entity of such government; and any authorized representative of the foregoing.

(ff) "Physical security" means measures to reasonably ensure that source or special nuclear material will only be used for authorized purposes and to prevent theft or sabotage.

(gg) "Production facility" means any nuclear reactor or plant specially designed or used to produce special nuclear material through the irradiation of source material or special nuclear material, the separation of isotopes or the chemical reprocessing of irradiated source or special nuclear material.

(hh) "Public Document Room" means the place at 1717 H Street NW., Washington, D.C., where public records of the Commission are ordinarily available for inspection.

(ii) "Public health and safety" means the public health and safety of the United States.

(jj) "Retransfer" means the transport from one foreign country to another of nuclear equipment or nuclear material previously exported from the United States, or of special nuclear material produced through the use of source material or special nuclear material previously exported from the United States.

(kk) "Sealed source" means any special nuclear material or byproduct material encased in a capsule designed to prevent leakage or escape of that nuclear material.

(ll) "Secretary" means the Secretary of the Commission.

(mm) "Source material" means:

(1) Uranium or thorium, other than special nuclear material; or

(2) Ores which contain by weight 0.05 percent or more of uranium or thorium, or any combination of these.

(nn) "Special nuclear material" means plutonium, uranium-233 or uranium enriched above 0.711 percent by weight in the isotope uranium-235.

(oo) "Specific license" means an export or import license issued to a named person upon an application filed pursuant to this part.

(pp) "Transfer" means the transfer of possession from one person to another person.

(qq) "Transport" means the physical movement of material from one location to another.

(rr) "United States", when used in a geographical sense, includes all territories and possessions of the United States, the Canal Zone, and Puerto Rico.

(ss) "Utilization facility" means any nuclear reactor, other than one that is a production facility, and the following major components of a nuclear reactor:

- (1) Pressure vessels designed to contain the core of a nuclear reactor;
- (2) Primary coolant pumps;
- (3) Fuel charging or discharging machines; and
- (4) Control rods.

A utilization facility does not include the steam turbine generator portion of a nuclear power plant.

§ 110.3 Interpretations.

Except as authorized by the Commission in writing, no interpretation of

the meaning of the regulations in this part other than a written interpretation by the Commission's General Counsel is binding upon the Commission.

§ 110.4 Communications.

Unless otherwise specified in this part, all communications concerning this part should be addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street NW., Washington, D.C., or 7735 Old Georgetown Road, Bethesda, Md.

§ 110.5 License requirements.

Except as provided in Subpart B, no person may export or import any nuclear equipment or nuclear material other than as authorized by a specific or general license issued pursuant to this part.

§ 110.6 Retransfers.

(a) No person may retransfer any nuclear equipment or nuclear material unless:

(1) At the time of the original export, the equipment or material could have been exported to the new country of ultimate destination under an exemption from licensing requirements pursuant to Subpart B or a general license pursuant to Subpart C; or

(2) The retransfer has been specifically authorized by the Department of Energy in response to a request submitted by the original license applicant or by the foreign consignee or government.

(b) Requests for authority to retransfer shall be sent to the Department of Energy, Office of Nuclear Affairs, International Programs, Washington, D.C. 20545.

Subpart B—Exemptions

§ 110.10 General provisions.

(a) *Specific exemptions.* Upon application by any person or upon its own initiative, the Commission may grant an exemption from the regulations in this part, if it determines that the exemption is authorized by law, is not inimical to the common defense and security and does not constitute an unreasonable risk to the public health and safety.

(b) *Exemptions from licensing requirements.* Exemptions from licensing requirements pursuant to sections 57d, 62 and 81 of the Atomic Energy Act will be granted only after coordi-

¹The granting of an exemption does not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

nation with the Executive Branch and after completion of rulemaking proceedings pursuant to Subpart L of this part.

§ 110.11 Import of nuclear equipment, source material and byproduct material.

Any person is exempt from the requirements for an import license to the extent that he imports any nuclear equipment, source material or byproduct material which he is authorized to possess under an exemption from licensing requirements or a specific or general license issued by the Commission or an Agreement State.

§ 110.12 Intergovernmental cooperative activities.

Government agencies are exempt from the requirements of section 53 of the Atomic Energy Act and from the regulations in this part to the extent that they export, at any one time, up to 3 grams of any type of special nuclear material for use in activities authorized by an intergovernmental cooperative agreement between the United States and a foreign nation, group of nations or international organization. The exporting government agency shall notify the Commission of the destination and purpose of such exempted exports.

§ 110.13 Export of byproduct material.

Any person is exempt from the requirements of section 81 of the Atomic Energy Act and from the regulations in this part to the extent that such person exports the following:

(a) Timepieces or hands or dials containing not more than the following specified quantities of byproduct material and not exceeding the following specified levels of radiation:

(1) 25 millicuries of tritium per timepiece;

(2) 5 millicuries of tritium per hand;

(3) 15 millicuries of tritium per dial (bezels will be considered as part of dial);

(4) 100 microcuries of promethium-147 per watch or 200 microcuries of promethium-147 per any other timepiece;

(5) 20 microcuries of promethium-147 per watch hand or 40 microcuries of promethium-147 per other timepiece hand;

(6) 60 microcuries of promethium-147 per watch dial or 120 microcuries of promethium-147 per other timepiece dial (bezels will be considered as part of the dial);

(7) The levels of radiation from hands and dials containing promethium-147, when measured through 50 milligrams per square centimeter of absorber, will not exceed 0.1 millirad per hour at 10 centimeters from any surface for wrist watches; 0.1 millirad per hour at 1 centimeter from any sur-

face for pocket watches; and 0.2 millirad per hour at 10 centimeters from any surface for any other timepiece;

(b) Lock illuminators containing not more than 15 millicuries of tritium or not more than 2 millicuries of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber;

(c) Precision balances containing not more than 1 millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part;

(d) Automobile shift quadrants containing not more than 25 millicuries of tritium;

(e) Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas;

(f) Thermostat dials and pointers containing not more than 25 millicuries of tritium per thermostat;

(g) Electron tubes,² provided that no tube has a level of radiation exceeding 1 millirad per hour at 1 centimeter from any surface, when measured through 7 milligrams per square centimeter of absorber, and that no tube contains more than one of the following specified quantities of byproduct material:

(1) 150 millicuries of tritium per microwave receiver protector tube or 10 millicuries of tritium per any other electron tube;

(2) 1 microcurie of cobalt-60;

(3) 5 microcuries of nickel-63;

(4) 30 microcuries of krypton-85;

(5) 5 microcuries of cesium-137; or

(6) 30 microcuries of promethium-147; and

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, byproduct material not exceeding the applicable quantity set forth in § 30.71, Schedule B, of this chapter;

(i) Synthetic plastic resins containing scandium-46 which are designed for sand-consolidation in oil wells and which have been manufactured or initially transferred in accordance with a specific license issued pursuant to § 32.17 of this chapter or equivalent regulations of an Agreement State;

(j) Tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced or initially transferred in accordance

with a specific license issued pursuant to § 32.22 of this chapter, provided that the tritium, krypton-85 or promethium-147 is not used in products primarily for frivolous purposes or in toys or adornments;

(k) Byproduct material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards and manufactured, processed, produced or initially transferred in accordance with a specific license issued pursuant to § 32.26 of this chapter; or

(l) Spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least 3 gallons per hour (11.4 liters per hour).

Subpart C—General Licenses

§ 110.20 General.

(a) In response to a petition or upon its own initiative, the Commission may issue a general license for the export or import of any nuclear equipment or material provided it determines that any exports or imports made pursuant to the general license will not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety.

(b) General licenses will be issued only after coordination with the Executive Branch and after completion of rule making proceedings pursuant to Subpart L of this part.

(c) General licenses do not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

§ 110.21 Export of nuclear equipment. [Reserved]

§ 110.22 Export of special nuclear material. [Reserved]

§ 110.23 Export of source material.

The following general licenses are hereby issued authorizing any person to export:

(a) At any one time, up to 1 kilogram of source material to any country, except Southern Rhodesia or countries listed in § 110.27, provided that no more than 100 kilograms per year may be exported by any one person to any one country.

(b) Thorium in incandescent gas mantles to any country, except Southern Rhodesia or countries listed in § 110.27.

(c) Depleted uranium in the form of counterweights installed in aircraft, rockets, projectiles or missiles to any country, except Southern Rhodesia or countries listed in § 110.27, provided that such counterweights have been manufactured under a specific license issued by the Commission or the Atomic Energy Commission and have

been impressed with the following statement, clearly legible after plating: "Depleted Uranium".

(d) Thorium contained in finished aircraft engine parts containing nickel-thoria alloy to any country, except Southern Rhodesia or countries listed in § 110.27, provided that:

(1) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thorium (thorium dioxide); and

(2) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

(e) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, X-ray units, radioactive thermoelectric generators or packaging for the transportation of radioactive materials, in quantities up to 1,000 kilograms per shipment to any country, except Southern Rhodesia or countries listed in § 110.27.

(f) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, in quantities not to exceed 500 pounds per device, to Southern Rhodesia, to the extent that such devices are for use in medical diagnosis or therapy.

(g) Uranium or thorium in any chemical mixture, compound, solution or alloy in which the uranium or thorium is by weight less than 0.05 percent, to any country, except Cambodia, Cuba, North Korea, Southern Rhodesia or Vietnam.

§ 110.24 Export of byproduct material.

The following general licenses are hereby issued authorizing any person to export:

(a) The following to any country, except Southern Rhodesia or countries listed in § 110.27:

(1) Byproduct material having an atomic number from 3 to 83, inclusive; or

(2) Tritium contained in luminous safety devices installed in aircraft as generally licensed items pursuant to § 31.7 of this chapter.

(b) Byproduct material having an atomic number from 3 to 83, inclusive, to Southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy.

(c) 5,000 curies of tritium and 5,000 curies of polonium-210 in a calendar quarter to any country, except Southern Rhodesia, Poland, or Rumania or countries listed in § 110.27, provided that no more than 1,000 curies of tritium may be exported by any person to any one country in a calendar quarter; that no more than 100 curies of tritium may be exported by any person in a single shipment under this

²For purposes of this paragraph, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pickup tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

general license; and that the material is in one or more of the following forms or products:

- (1) Tritium activated luminous paint;
 - (2) Tritium labeled organic compounds;
 - (3) Tritiated accelerator targets;
 - (4) Polonium-210 static eliminators;
 - (5) Polonium-210 neutron sources;
 - (6) Tritium or Polonium-210 calibration standards;
 - (7) Luminescent light sources;
 - (8) Tritium sources for chromatography instruments;
 - (9) Electron tubes; or
 - (10) Tritium as a contaminant of helium-3 in a concentration not to exceed 2.5 millicuries of tritium per liter of helium-3.
- (d) Byproduct material as specified in paragraph (c) to Southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy.
- (e) Americium-241 to any country, except Southern Rhodesia, Poland, Rumania or countries listed in § 110.27.
- (f) Byproduct material having an atomic number from 3 to 83, inclusive, in labeled organic or inorganic compounds, in quantities up to 1 curie per shipment, to any country listed in § 110.27, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.
- (g) Tritium in labeled organic compounds in quantities up to 100 curies per shipment, to Rumania, Poland, and any country listed in § 110.27, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.

§ 110.25 Export of deuterium.

A general license is hereby issued authorizing any person to export at any one time up to 100 liters of deuterium at standard temperature and pressure (90 grams of heavy water) to any country, except Southern Rhodesia or countries listed in § 110.27.

§ 110.26 Export of nuclear grade graphite.

A general license is hereby issued authorizing any person to export at any one time up to 100 kilograms of nuclear grade graphite to any country, except Southern Rhodesia or countries listed in § 110.27, provided that no more than 2,000 kilograms per year may be exported by any one person to any one country.

§ 110.27 Restricted destinations.

(a) Albania, (b) Bulgaria, (c) Cambodia, (d) Cuba, (e) Czechoslovakia, (f) Estonia, (g) German Democratic Republic (including East Berlin), (h) Hungary, (i) Laos, (j) Latvia, (k) Lithuania, (l) North Korea, (m) Outer

Mongolia, (n) Peoples Republic of China, (o) Union of Soviet Socialist Republics, and (p) Vietnam.

Subpart D—Applications for Specific Licenses

§ 110.30 Filing a license application.

(a) A license application shall be filed with the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street NW., Washington, D.C. or 7735 Old Georgetown Road, Bethesda, Md.

(b) Except for production or utilization facilities, export license applications should be filed on form NRC-7.

(c) An application for a license to export a production or utilization facility or to import nuclear equipment or nuclear material should be filed by letter.

(d) An applicant may file a consolidated license application involving two or more proposed exports of similar equipment or material destined for the same country, provided all the exports will be made within 2 years, or other time period as approved by the Commission, and under reasonably similar circumstances.

(e) If an import license application involves equipment or material which is intended for subsequent export, the applicant may simultaneously apply for the appropriate export license. The issuance of an import license does not imply approval of a subsequent export.

(f) Information contained in a previous application may be incorporated by reference.

§ 110.31 General requirements for an export license application.

Each application for an export license shall state:

- (a) Name and U.S. address of applicant;
- (b) Name and address of supplier of equipment or material, if different from the applicant;
- (c) Name and address of ultimate consignee(s);
- (d) Name and address of intermediate consignee(s);
- (e) Date of proposed first shipment;
- (f) Date of proposed completion of final shipment;
- (g) Contractual delivery dates, if established;
- (h) Proposed expiration date of export license; and
- (i) End-use of material or equipment by all consignees, intermediate and ultimate, with sufficient detail to permit accurate evaluation of the justification for the proposed export.

§ 110.32 Additional requirements for a nuclear equipment export license application.

An application for a license to export nuclear equipment shall state the following, in addition to the general information specified in § 110.31:

- (a) General description of the equipment;
- (b) For nuclear reactors, the design power level in thermal or electrical watts.
- (c) Name of installation, if known, in which the equipment is to be used;
- (d) Location where the equipment is to be used;
- (e) Date when equipment is needed abroad;
- (f) Total dollar value of all items to be exported under the requested license; and
- (g) A list of the items proposed to be exported. Such list need only identify the items by the categories listed in paragraphs a. through e. of appendix A.

§ 110.33 Additional requirements for a nuclear material export license application.

Each application for a license to export nuclear material shall state the following, in addition to the general requirements in § 110.31:

- (a) The applicable contract number, if known, of any material supplied under a Department of Energy enrichment, lease, or sale contract;
- (b) Where materials are intended for use in production or utilization facility, estimated date of first use, by ultimate or intermediate consignee;
- (c) Chemical and physical form, including, for enriched uranium, the weight percentage of isotopic enrichment, and, for plutonium, the sum of the percentages of Pu-239 content and Pu-241 content;
- (d) Quantity in grams or kilograms (curies for byproduct material) of: (1) the material in the form exported, (2) any contained uranium or plutonium, and (3) the contained U-235 in enriched uranium; and
- (e) If known, the country of origin of source and special nuclear material including the country where any special nuclear material was produced.

§ 110.34 Requirements for an import license application.

Each application for an import license shall state:

- (a) Name and U.S. address of applicant;
- (b) Country and installation from which the nuclear equipment or material is being imported;
- (c) Name and address of supplier of the nuclear equipment or material;
- (d) Destination and ultimate use of the nuclear equipment or material;
- (e) Date of proposed first shipment;
- (f) Date of proposed completion of final shipment;

(g) Chemical and physical form of nuclear material, including, for enriched uranium, the weight percentage of enrichment and, for plutonium, the sum of the percentages of Pu-239 content and Pu-241 content;

(h) Quantity in grams or kilograms of: (1) the nuclear material in the form imported, (2) any contained uranium or plutonium, and (3) the contained U-235 in enriched uranium;

(i) Mode of transport of nuclear material and package identification (including IAEA Certificate of Competent Authority number); and

(j) If known, the country of origin of nuclear material including the country where any special nuclear material was produced.

110.35 Further information from a license applicant.

(a) The Commission may require further information from the license applicant if necessary to complete review of the application.

(b) Each applicant shall file an amendment to his license application whenever there is any substantive change in the information described in his application.

§ 110.36 Withdrawal of a license application.

(a) An applicant may withdraw his application at any time.

(b) An applicant shall withdraw an application when it is superseded by a new application or when he no longer intends to use his license if issued.

(c) The withdrawal of a license application does not authorize the removal of any NRC record from Commission files.

Subpart E—Review of License Applications

§ 110.40 Commission review.

(a) Immediately after receipt of a license application, the Commission will initiate its licensing review and, to the maximum extent feasible, will expeditiously process the application concurrently with review by the Executive Branch.

(b) License applications for export of the following will be reviewed by the Commissioners:

(1) Production and utilization facilities;

(2) One effective kilogram or more of special nuclear material, except for routine export license applications for reloads of low-enriched uranium fuel for use in power reactors with respect to which a previous export license to receive fuel has been issued;

(3) 10,000 kilograms or more of source material;

(4) 1,000 kilograms or more of heavy water or nuclear grade graphite;

(5) Any other license application determined by the staff or any Commis-

sioner to warrant review by the Commission.

(c) If the Commission has not completed action on a license application within 60 days after receipt of the Executive Branch judgment, as provided for in § 110.41, or the license application when an Executive Branch judgment is not required, it will inform the applicant in writing of the reason for delay and, as appropriate, provide followup reports.

§ 110.41 Executive Branch review.

(a) Except as provided in paragraph (d), the Commission will promptly forward a properly completed export license application to the Executive Branch.

(b) The Executive Branch will be requested to:

(1) Provide its judgment as to whether the proposed export would be inimical to the common defense and security, along with supporting rationale and information.

(2) Where applicable, confirm that the proposed export would be under the terms of an agreement for cooperation; and

(3) Address the extent to which the export criteria in section 110.42 are met, if applicable, and the extent to which the recipient country or group of countries has adhered to the provisions of any applicable agreement for cooperation.

(c) The Commission may request the Executive Branch to address specific concerns and provide additional data and recommendations as necessary.

(d) The Executive Branch has informed the Commission that exports of nuclear equipment and nuclear material in the following categories would not be inimical to the common defense and security because they lack significance for nuclear explosive purposes and will not normally be reviewed by the Executive Branch:

(1) Byproduct material: all types and quantities, except tritium in quantities exceeding 100 curies;

(2) Source material: all exports for non-nuclear end-uses, and exports of less than 250 kilograms for nuclear end uses.

(3) Low-enriched uranium: all exports of 1 kilogram or less of contained U-235;

(4) High-enriched uranium: 0.040 effective kilograms or less;

(5) Plutonium and U-233: 10 grams or less;

(6) Deuterium: 1,000 liters or less (900 grams or less of heavy water);

(7) Nuclear grade graphite: 100 kilograms or less.

(8) Nuclear equipment: all exports with a value under \$10,000.

This paragraph does not apply to exports with end-uses related to isotope separation, chemical reprocessing, heavy water production, plutonium

handling, advanced reactors and initial export of nuclear equipment to foreign nuclear reactors, and is subject to other limitations which the Executive Branch or the Commission may, from time to time, deem necessary.

§ 110.42 Export licensing criteria.

(a) The review of specific license applications for the export for peaceful nuclear uses of production or utilization facilities, special nuclear material and source material will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) will be applied with respect to any such facilities or material proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof;

(2) No such facilities or material proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such facilities or material, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device;

(3) Adequate physical security measures will be maintained with respect to such facilities or material proposed to be exported and to any special nuclear material used in or produced through the use thereof. Physical security measures will be deemed adequate if such measures provide a level of protection equivalent to that set forth in § 110.423;

(4) No such facilities or material proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other country or group of countries unless the prior approval of the United States is obtained for such retransfer;

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor will be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration; and

(6) With respect to exports of such facilities or material to non-nuclear weapon states, for which the export license application is filed after September 10, 1979, or which will occur after March 10, 1980, IAEA safeguards will be maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the

time of the export. This criterion will not be applied if the Commission has been notified by the President in writing that failure to approve an export because this criterion has not been met would be seriously prejudicial to the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, in which case the provisions of section 128 of the Atomic Energy Act regarding Congressional review will apply.

(b) The review of license applications for the export of nuclear equipment, other than a production or utilization facility, and for the export of deuterium and nuclear grade graphite will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the NPT will be applied with respect to such equipment or material;

(2) No such equipment or material will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and

(3) No such equipment or material will be retransferred without the prior approval of the United States.

§ 110.43 Physical security standards.

(a) Commission determinations on the adequacy of physical security programs in recipient countries for Category I quantities of nuclear material (see Appendix C) will be based upon:

(1) Review of the physical security program established by the recipient country and of the implementation of the national requirements as considered through country visits and other information exchanges to ensure that the physical security measures provide as a minimum protection comparable to that set forth in International Atomic Energy Agency publication INFCIRC/225/Rev. 1 entitled "The Physical Protection of Nuclear Material" (INFCIRC/225), which is incorporated by reference in this part.³

(2) Written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

(3) The Commission's determinations may be based upon a country-wide finding rather than upon case-by-case analysis. The Commission will reexamine a determination whenever

there are changed circumstances within a country that might reduce the effectiveness of its physical security program.

(b) Commission determinations on the adequacy of physical security programs in recipient countries for Category II and III quantities of material will be based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

(c) Commission determinations on the adequacy of physical security programs in recipient countries for exported facilities will be made in accordance with the categories of material in use or in storage at the exported facilities and will be based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

§ 110.44 Issuance or denial of licenses.

(a) The Commission will issue an export license if it has been notified by the State Department that it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security; and

(1) Finds, based upon a reasonable judgment of the assurances provided and other information available to the Federal Government, that:

(i) The applicable criteria in § 110.42, or their equivalent, are met, provided that failure to meet the provisions of § 110.42(a)(4) and (5) shall not prevent continued cooperation under an agreement for cooperation concluded pursuant to section 124 of the Atomic Energy Act if the Secretary of State notifies the Commission that the affected country or group of countries has agreed to negotiations as called for in section 404(a) of the Non-Proliferation Act and, if after March 10, 1980, that the President has provided an additional exemption pursuant to section 126a of the Atomic Energy Act;

(ii) The proposed export would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety; and

(iii) Any proposed export of a production or utilization facility or special nuclear material would be under the terms of an agreement for cooperation; or,

(2) Finds that there are no material changed circumstances associated with an export license application from those existing at the time of issuance of a prior license to the same country, if the prior license was issued pursuant to the other procedures in this part.

ant to the other procedures in this part.

(b) If, after receiving the Executive Branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under the Atomic Energy Act, the Commission will publicly issue a decision to that effect, and will submit the license application to the President. The Commission's decision will include an explanation of the basis for the decision and any dissenting or separate views.

(c) After receipt of an Executive Branch judgment which does not recommend approval, the Commission may deny or return without action the applicable license application. The applicant will be notified in writing of the reason for denial or proposed denial, or the reason the application is being returned without action.

(d) The Commission will issue an import license if it determines that the proposed import would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety.

§ 110.45 Conduct resulting in termination of nuclear exports.

(a) Except as provided in paragraph (c), no license will be issued to export nuclear equipment or material to any non-nuclear weapon state that is found by the President to have, after March 10, 1978:

(1) Detonated a nuclear explosive device;

(2) Terminated or abrogated IAEA safeguards;

(3) Materially violated an IAEA safeguards agreement; or

(4) Engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and failed to take steps which represent sufficient progress toward terminating such activities.

(b) Except as provided in paragraph (c), no license will be issued to export nuclear equipment or material to any country or group of countries that is found by the President to have, after March 10, 1978:

(1) Materially violated an agreement for cooperation with the United States or the terms of any other agreement under which nuclear equipment or material has been exported;

(2) Assisted, encouraged or induced any non-nuclear weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and failed to take steps which represent sufficient progress toward

³This incorporation by reference was approved by the Director of the Federal Register on May 3, 1978. Copies of INFCIRC/225 may be obtained from the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and are available for inspection in the Commission Public Document Room. A copy is on file in the library of the Federal Register.

terminating such assistance, encouragement or inducement; or

(3) Entered into an agreement for the transfer of reprocessing equipment, materials or technology to the sovereign control of a non-nuclear weapon state, except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to an international agreement or understanding to which the United States subscribes.

(c) If, pursuant to section 129 of the Atomic Energy Act, the President waives the requirement for the termination of exports to a country described in paragraph (a) or (b) after determining in writing that the cessation of exports would seriously prejudice the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the Commission may issue licenses if other applicable statutory provisions are met.

Subpart F—License Terms and Related Provisions

§ 110.50 Terms.

(a) General and specific licenses.

(1) Each license is subject to all applicable provisions of the Atomic Energy Act and to all applicable rules, regulations, decisions and orders of the Commission.

(2) Each license is subject to amendment, suspension, revocation or incorporation of separate conditions when required by amendments of the Atomic Energy Act or other applicable law, or by other rules, regulations, decisions or orders issued in accordance with the terms of the Atomic Energy Act or other applicable law.

(3) Each license authorizes export or import only and does not authorize any person to receive title to, acquire, receive, possess, deliver, use or transfer nuclear equipment or material.

(4) Each nuclear material license authorizes the export or import of only the nuclear material and accompanying packaging and fuel element hardware.

(5) No nuclear equipment license confers authority to export or import nuclear material.

(6) Each nuclear equipment export license authorizes the export of only those items required for use in the foreign nuclear installation for which the items are intended.

(7) A licensee shall not proceed to export or import and shall notify the Commission promptly if he knows or has reason to believe that the packaging requirements of Part 71 of this chapter have not been met.

(b) Specific licenses. (1) Each specific license will have an expiration date.

(2) A licensee may export or import only for the purpose stated in his license application, except when any

nuclear equipment exported pursuant to his license is scrapped or otherwise rendered unsuitable for any nuclear related end use.

(3) A licensee shall promptly return any license which is completed, expired, revoked or unused (or partially used and not intended to be used further) to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5) A licensee authorized to export or import special nuclear material is responsible for compliance with the physical protection requirements of Part 73 of this chapter, unless a domestic licensee of the Commission has assumed that responsibility and the Commission has been so notified.

(6) A license may be transferred, assigned or disposed of to another person only with the approval of the Commission by license amendment.

§ 110.51 Amendment and renewal of licenses.

(a) A licensee may submit a request to renew his license or to amend any part of his license, except that changes in the value of nuclear equipment already authorized for export do not require a license amendment.

(b) If a licensee submits a renewal request at least 30 days prior to the license's scheduled expiration date, the license will remain valid until the Commission has acted on his request.

(c) The Commission will review requests for amendments using, as appropriate, the same procedures and standards as for original license applications.

§ 110.52 Revocation, suspension, and modification.

(a) A license may be revoked, suspended, or modified for a condition which would warrant denial of the original license application.

(b) The Commission may require further information from a licensee to determine whether a license should be revoked, suspended, or modified.

(c) Except when the common defense and security or public health and safety requires otherwise, no license will be revoked, suspended, or modified before the licensee is informed in writing of the grounds for such action and afforded the opportunity to reply and be heard under procedures patterned on those in subpart J.

§ 110.53 United States address, records, and inspections.

(a) Each licensee shall have an office in the United States where papers may be served and where records required by the Commission will be maintained.

(b) Each licensee shall maintain records concerning his exports or imports

for 5 years after each export or import, except that by product material records shall be maintained for 2 years.

(c) Each licensee shall permit the Commission to inspect his records, premises, and activities pertaining to his exports and imports when necessary to fulfill the requirements of the Atomic Energy Act.

Subpart G—Violations and Enforcement

§ 110.60 Violations.

(a) A licensee who violates a provision of the Atomic Energy act or title II of the Energy Reorganization Act or of any rule, regulation, license, or order promulgated under these Acts may be guilty of a crime, and, upon conviction, may be punished by fine and imprisonment as provided by law;

(b) An injunction or other court order may be obtained to prohibit any such violation.

(c) A court order may be obtained for payment of a civil penalty imposed pursuant to section 234 of the Atomic Energy Act.

(d) A violation may result in the revocation, suspension, or modification of a license.

§ 110.61 Notice of violation.

(a) Before instituting any enforcement action the Commission will serve on the licensee written notice of violation, except as provided in paragraph (d).

(b) The notice will state the alleged violation; require the licensee to respond in writing, within 20 days or other specified time; and may also require the licensee to state the corrective steps taken or to be taken and the date when full compliance will be achieved.

(c) The notice may provide that, if an adequate and timely reply is not received, an order to show cause may be issued pursuant to § 110.62 or a proceeding instituted to impose a civil penalty pursuant to § 110.64.

(d) The notice may be omitted and an order to show cause issued when the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.62 Order to show cause.

(a) In response to an alleged violation, described in § 110.60, the Commission may institute a proceeding to revoke, suspend, or modify a license by issuing an order to show cause:

(1) Stating the alleged violation and proposed enforcement action; and

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) An answer consenting to the proposed enforcement action shall consti-

tute a waiver by the licensee of a hearing and of all rights to seek further Commission or judicial review.

(c) The order to show cause may be omitted and an order issued to revoke, suspend, or modify the license in cases where the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.63 Order for revocation, suspension, or modification.

(a) In response to an alleged violation described in § 110.60, the Commission may revoke, suspend, or modify a license by issuing an order:

(1) Stating the violation and the effective date of the proposed enforcement action; and

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) If an answer is not filed within the time specified, the enforcement action will become effective and permanent as proposed.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding, staying the effectiveness of the order or taking other appropriate action.

(d) The order may be made effective immediately, with reasons stated, pending further hearing and order, when the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.64 Civil penalty.

(a) In response to a violation, the Commission may institute a proceeding to impose a civil penalty under section 234 of the Atomic Energy Act by issuing a notice to the licensee:

(1) Stating the alleged violation and the amount of the proposed penalty;

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer; and

(3) Advising that a delinquent payment for a subsequently imposed penalty may be referred to the Attorney General for collection pursuant to section 234c. of the Atomic Energy Act.

(b) If an answer is not filed within the time specified, the Commission will issue an order imposing the proposed penalty.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding or imposing a penalty subject to any required hearing.

(d) If an order imposing a civil penalty is issued, the licensee may request a hearing within 20 days or other specified time.

(e) Except when the matter has been referred to the Attorney General for collection, payment of penalties shall

be made by check, draft, or money order payable to the Treasurer of the United States, and mailed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(f) An enforcement action to impose a civil penalty will not itself revoke, modify, or suspend any license under this part.

§ 110.65 Settlement and compromise.

At any time after issuance of an order for any enforcement action under this subpart, an agreement may be entered into for settlement of the proceeding or compromise of a penalty. Upon approval by the Commission, or presiding officer if a hearing has been requested, the terms of the settlement or compromise will be embodied in the order disposing of the enforcement action.

§ 110.66 Enforcement hearing.

(a) If the licensee demands a hearing, the Commission will issue an order specifying the time and place.

(b) A hearing pursuant to this subpart will be conducted under the procedures in subpart G of Part 2.

Subpart H—Public Notification and Availability of Documents and Records

§ 110.70 Public notice of receipt of an application.

(a) The Commission will notice the receipt of each export or import license application by placing a copy in the Public Document Room.

(b) The Commission will also notice in the FEDERAL REGISTER, receipt of applications for:

(1) Production and utilization facilities;

(2) One effective kilogram or more of special nuclear material; and

(3) 10,000 kilograms or more of source material, heavy water, or nuclear grade graphite.

(c) Periodic lists of applications received may be obtained upon request addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

§ 110.71 Notice of withdrawal of an application.

The Commission will notice the withdrawal of an application by placing a copy of the withdrawal request in the Public Document Room.

§ 110.72 Availability of documents in the Public Document Room.

Unless exempt from disclosure under part 9 of this chapter, the following documents pertaining to each license application and license will be made available in the Public Document Room:

(a) The license application and any requests for amendments;

(b) Commission correspondence with the applicant or licensee;

(c) FEDERAL REGISTER notices;

(d) The Commission letter requesting Executive Branch views;

(e) Correspondence from the State Department with Executive Branch views;

(f) Correspondence from foreign governments and international organizations;

(g) Filings pursuant to subpart I and Commission and Executive Branch responses, if any;

(h) If a hearing is held, the hearing record and decision;

(i) A statement of staff conclusions; and

(j) The license, requests for license amendments and amendments.

§ 110.73 Availability of NRC records.

(a) Commission records under this part will be made available to the public only in accordance with part 9 of this chapter.

(b) Proprietary information provided under this part may be protected under part 9 and § 2.790 (b), (c), and (d) of this chapter.

Subpart I—Public Participation Procedures Concerning License Applications

§ 110.80 Basis for hearings.

The procedures in this Part will constitute the exclusive basis for hearings on export license applications.

§ 110.81 Written comments.

(a) The Commission encourages written comments from the public regarding export and import license applications. The Commission will consider and, if appropriate, respond to these comments.

(b) If possible, these comments should be submitted within 30 days after public notice of receipt of the application and addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(c) The Commission will provide the applicant with a copy of the comments and, if appropriate, a reasonable opportunity for response.

§ 110.82 Hearing request or intervention petition.

(a) A person may request a hearing or petition for leave to intervene on a license application.

(b) Hearing requests and intervention petitions shall:

(1) State the name, address and telephone number of the requestor or petitioner;

(2) Set forth the issues sought to be raised;

(3) Explain why a hearing or an intervention would be in the public interest and how a hearing or intervention would assist the Commission in making the determinations required by sections 53, 57c, 63, 64, 69, 81, 82, 103, 104, 109, 126, 127, or 128 of the Atomic Energy Act, as appropriate;

(4) Specify, when a person asserts that his interest may be affected, both the facts pertaining to his interest and how it may be affected, with particular reference to the factors in § 110.84.

(c) Hearing requests and intervention petitions will be considered timely only if filed not later than:

(1) 30 days after notice of receipt in the FEDERAL REGISTER, for those applications published in the FEDERAL REGISTER;

(2) 15 days after notice of receipt in the Public Document Room, for all other applications; or

(3) Such other time as may be provided by the Commission.

§ 110.83 Answers and replies.

(a) Unless otherwise specified by the Commission, an answer to a hearing request or intervention petition may be filed within 30 days after the request or petition has been filed, for those applications noticed in the FEDERAL REGISTER, or within 10 days for all other applications.

(b) Unless otherwise specified by the Commission, a reply to an answer may be filed within 10 days after all timely answers have been filed.

(c) Answers and replies should address the factors in § 110.84.

§ 110.84 Commission action on a hearing request or intervention petition.

(a) In an export licensing proceeding, or in an import licensing proceeding in which a hearing request or intervention petition does not assert or establish an interest which may be affected, the Commission will consider:

(1) Whether a hearing would be in the public interest; and

(2) Whether a hearing would assist the Commission in making the statutory determinations required by the Atomic Energy Act.

(b) If a hearing request or intervention petition asserts an interest which may be affected, the Commission will consider:

(1) The nature of the alleged interest;

(2) How that interest relates to issuance or denial; and

(3) The possible effect of any order on that interest, including whether the relief requested is within the Commission's authority, and, if so, whether granting relief would redress the alleged injury.

(c) Untimely hearing requests or intervention petitions may be denied unless good cause for failure to file on time is established. In reviewing un-

timely requests or petitions, the Commission will also consider:

(1) The availability of other means by which the requestor's or petitioner's interest, if any, will be protected or represented by other participants in a hearing; and

(2) The extent to which the issues will be broadened or action on the application delayed.

(d) Prior to granting or denying a hearing request or intervention petition, the Commission may request further information from the petitioner, requestor, the Commission staff, the Executive Branch or others, and will not grant a hearing request prior to receipt and evaluation of Executive Branch views on the license application.

(e) The Commission will deny a request or petition that pertains solely to matters outside its jurisdiction.

(f) If an issue has been adequately explored in a previous licensing hearing conducted pursuant to this part, a request for a new hearing in connection with that issue will be denied unless:

(1) A hearing request or intervention petition establishes that an interest may be affected; or

(2) The Commission determines that changed circumstances or new information warrant a new hearing.

(g) After consideration of the factors covered by paragraphs (a) through (f), the Commission will issue a notice or order granting or denying a hearing request or intervention petition. Upon the affirmative vote of two Commissioners a hearing will be ordered. A notice granting a hearing will be published in the FEDERAL REGISTER and will specify whether the hearing will be oral or consist of written comments. A denial notice will set forth the reasons for denial.

§ 110.85 Notice of hearing consisting of written comments.

(a) A notice of hearing consisting of written comments will:

(1) State the issues to be considered;

(2) Provide the names and addresses of participants;

(3) Specify the time limits for participants and others to submit written views and respond to any written comments; and

(4) State any other instructions the Commission deems appropriate.

(b) The Secretary will give notice of any hearing under this section and § 110.86 to any person who so requests.

§ 110.86 Notice of oral hearing.

(a) A notice of oral hearing will:

(1) State the time, place and issues to be considered;

(2) Provide names and addresses of participants;

(3) Designate the presiding officer;

(4) Specify the time limit for participants and others to indicate whether they wish to present views; and

(5) State any other instructions the Commission deems appropriate.

(b) If the Commission is not the presiding officer, the notice of oral hearing will also state:

(1) When the jurisdiction of the presiding officer commences and terminates;

(2) The powers of the presiding officer; and

(3) Instructions to the presiding officer to certify promptly the completed hearing record to the Commission without preliminary decision or findings, unless the Commission directs otherwise.

§ 110.87 Conditions in a notice or order.

(a) A notice or order granting a hearing or permitting intervention may restrict irrelevant or duplicative testimony, or require common interests to be represented by a single spokesman.

(b) If a participant's interests do not extend to all the issues in the hearing, the notice or order may limit his participation accordingly.

(c) Unless authorized by the Commission, the granting of participation will not broaden the hearing issues.

§ 110.88 Authority of the Secretary.

The Secretary is authorized to prescribe time schedules and other procedural arrangements, when not covered by this part, and rule on related procedural requests.

§ 110.89 Filing and service.

(a) Hearing requests, intervention petitions, answers, replies, and accompanying documents shall be filed with the Commission by delivery or by mail or telegram to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) All filings and Commission notices and orders shall be served, as appropriate, upon the applicant; the Executive Legal Director, Nuclear Regulatory Commission, Washington, D.C. 20555; the Executive Secretary, Department of State, Washington, D.C. 20520; and participants, if any.

(c) Service is completed by:

(1) Delivering the paper to the person; or leaving it in his office with someone in charge; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if he has no office or it is closed, leaving it at his usual place of residence with some occupant of suitable age and discretion;

(2) Depositing it with a telegraph company, properly addressed and with charges prepaid;

(3) Depositing it in the United States mail, properly stamped and addressed; or

(4) Any other manner authorized by law, when service cannot be made as provided in subparagraphs (1) through (3).

(d) Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown, and may be made by:

(1) Written acknowledgement of the person served or his authorized representative; or

(2) The certificate or affidavit of the person making the service.

(e) The Commission may make special provisions for service when circumstances warrant.

§ 110.90 Computation of time.

(a) In computing time, the first day of a designated time period is not included and the last day is included. If the last day is a Saturday, Sunday or legal holiday at the place where the required action is to be accomplished, the time period will end on the next day which is not a Saturday, Sunday or legal holiday.

(b) In time periods of 7 days or less, Saturdays, Sundays and holidays are not counted.

(c) Whenever an action is required within a prescribed period by a paper served pursuant to § 110.89, 3 days shall be added to the prescribed period if service is by mail.

(d) An interpretation of this section is contained in § 8.3 of this chapter.

§ 110.91 Commission consultations.

(a) The Commission may consult at any time on a license application with the staff, Executive Branch or other persons.

(b) Where the Commission seeks public comment on procedural questions involving grant or denial of intervention petitions, the views of the Commission staff and the Executive Branch on standing and a hearing as a matter of right will be expressed through their public responses, except to the extent that classified information is involved.

(c) The views of the Commission staff and Executive Branch on whether a hearing should be held as a matter of discretion will be placed in the Public Document Room upon receipt by the Commissioners, except to the extent that these views are classified. The petitioners and the applicant will be notified at the time views on discretionary hearings are placed in the Public Document Room and provided a copy upon request.

Subpart J—Hearings

§ 110.100 Public hearings.

Hearings under this part will be public unless the Commission directs otherwise.

§ 110.101 Filing and service.

Filing and service of hearing documents shall be pursuant to § 110.89.

§ 110.102 Hearing docket.

For each hearing, the Secretary will maintain a docket which will include

the hearing transcript, exhibits and all papers filed or issued pursuant to the hearing.

§ 110.103 Acceptance of hearing documents.

(a) Each document filed or issued shall be bound on the left side, clearly legible, and shall bear the docket number, license application number and hearing title.

(b) Each document shall be filed in one original and signed by the participant or his authorized representative, with his address and date of signature indicated. The signature is a representation that the document is submitted with full authority, the signator knows its contents and that, to the best of his knowledge, the statements made in it are true.

(c) A document not meeting the requirements of this section may be returned with an explanation for nonacceptance and, if so, will not be docketed.

§ 110.104 Presiding officer.

(a) The full Commission will ordinarily be the presiding officer at a hearing under this part. However, the Commission may provide in a hearing notice that one or more Commissioners, or any other person as provided by law, will preside.

(b) A participant may submit a written motion for the disqualification of any person presiding. The motion shall be supported by affidavit setting forth the alleged grounds for disqualification. If the presiding officer does not grant the motion or the person does not disqualify himself, the Commission will decide the matter.

(c) If any presiding officer designated by the Commission deems himself disqualified, he shall withdraw by notice on the record after notifying the Commission.

(d) If a presiding officer becomes unavailable, the Commission will designate a replacement.

(e) Any motion concerning the designation of a replacement presiding officer shall be made within 5 days after the designation.

(f) Unless otherwise ordered by the Commission, the jurisdiction of a presiding officer other than the Commission commences as designated in the hearing notice and terminates upon certification of the hearing record to the Commission, or when the presiding officer is disqualified.

§ 110.105 Responsibility and power of the presiding officer in an oral hearing.

(a) The presiding officer in any oral hearing shall conduct a fair hearing, develop a record that will contribute to informed decisionmaking, and, within the framework of the Commission's orders, have the power necessary to achieve these ends, including the power to:

(1) Take action to avoid unnecessary delay and maintain order;

(2) Dispose of procedural requests;

(3) Question participants and witnesses, and entertain suggestions as to questions which may be asked of participants and witnesses;

(4) Order consolidation of participants;

(5) Establish the order of presentation;

(6) Hold conferences before or during the hearing;

(7) Establish reasonable time limits;

(8) Limit the number of witnesses; and

(9) Strike or reject duplicative or irrelevant presentations.

(b) Where the Commission itself does not preside:

(1) The presiding officer may certify questions or refer rulings to the Commission for decision;

(2) Any hearing order may be modified by the Commission; and

(3) The presiding officer will certify the completed hearing record to the Commission, which may then issue its opinion on the hearing or provide that additional testimony be presented.

§ 110.106 Participation in a hearing.

(a) Unless otherwise limited by this part or by the Commission, participants in a hearing may submit:

(1) Initial and concluding written statements of position on the issues;

(2) Written questions to the presiding officer; and

(3) Written responses and rebuttal testimony to the statements of other participants.

(b) Participants in an oral hearing may also submit oral statements, questions, responses and rebuttal testimony.

(c) A participant in an import licensing hearing establishing that his interest may be affected, may be accorded additional procedural rights under Subpart G of Part 2 with respect to resolution of domestic factual issues regarding the public health, safety and environment of the United States, and the protection of the United States public against domestic theft, diversion or sabotage, to the extent that such issues are separable from the nondomestic issues associated with the license application.

§ 110.107 Presentation of testimony in an oral hearing.

(a) All direct testimony in an oral hearing shall be filed no later than 7 days before the hearing or as otherwise ordered or allowed.

(b) Written testimony will be received into evidence in exhibit form.

(c) Unless proscribed under § 110.87, members of groups which are designated as participants may testify in their individual capacities.

(d) Participants may present their own witnesses.

(e) Testimony by the Commission and the Executive Branch will be presented only by persons officially designated for that purpose.

(f) Participants and witnesses will be questioned orally or in writing and only by the presiding officer. Questions may be addressed to individuals or to panels of participants or witnesses.

(g) The presiding officer may accept written testimony from a person unable to appear at the hearing, and may request him to respond to questions.

(h) No subpoenas will be granted at the request of participants for attendance and testimony of participants or witnesses or the production of evidence.

§ 110.108 Appearance in an oral hearing.

(a) A participant may appear in a hearing on his own behalf or be represented by an authorized representative.

(b) A person appearing shall file a written notice stating his name, address and telephone number, and if an authorized representative, the basis of his eligibility and the name and address of the participant on whose behalf he appears.

(c) A person may be excluded from a hearing for disorderly, dilatory or contemptuous conduct, provided he is informed of the grounds and given an opportunity to respond.

§ 110.109 Motions and requests.

(a) Motions and requests shall be addressed to the presiding officer, and, if written, also filed with the Secretary and served on other participants.

(b) Other participants may respond to the motion or request. Responses to written motions or requests shall be filed within 5 days after service.

(c) When the Commission does not preside, in response to a motion or request, the presiding officer may refer a ruling or certify a question to the Commission for decision and notify the participants.

(d) Unless otherwise ordered by the Commission, a motion or request, or the certification of a question or referral of a ruling, shall not stay or extend any aspect of the hearing.

§ 110.110 Default.

When a participant fails to act within a specified time, the presiding officer may consider him in default, issue an appropriate ruling and proceed without further notice to the defaulting participant.

§ 110.111 Waiver of a rule or regulation.

(a) A participant may petition that a Commission rule or regulation be waived with respect to the license application under consideration.

(b) The sole ground for a waiver shall be that, because of special cir-

cumstances concerning the subject of the hearing, application of a rule or regulation would not serve the purposes for which it was adopted.

(c) Waiver petition shall specify why application of the rule or regulation would not serve the purposes for which it was adopted.

(d) Other participants may, within 10 days, file a response to a waiver petition.

(e) When the Commission does not preside, the presiding officer will certify the waiver petition to the Commission, which, in response, will grant or deny the waiver or direct any further proceedings.

(f) Regardless of whether a waiver is granted or denied, a separate petition for rulemaking may be filed pursuant to Subpart L of this part.

§ 110.112 Reporter and transcript for an oral hearing.

(a) A reporter designated by the Commission will record an oral hearing and prepare the official hearing transcript.

(b) Except for any classified portions, transcripts will be placed in the Public Document Room, and copies may be purchased from the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(c) Corrections of the official transcript may be made only as specified by the Secretary.

§ 110.113 Commission action.

(a) Upon completion of a hearing, the Commission will issue a written opinion including its decision on the license application, the reasons for the decision and any dissenting views.

(b) While the Commission will consider fully the hearing record, the licensing decision will be based on all relevant information, including information which might go beyond that in the hearing record.

(c) If the Commission considers information not in the hearing record in reaching its licensing decision, the hearing participants will be informed and, if not classified or otherwise privileged, the information will be placed in the Public Document Room and furnished to the participants.

(d) The Commission may issue a license before completion of a hearing if it finds that:

(1) Prompt issuance is required in the public interest, particularly the common defense and security; and

(2) A participant establishing that his interest may be affected has been provided a fair opportunity to present his views.

(e) The Commission may:

(1) Defer any hearing;

(2) Consolidate applications for hearing;

(3) Narrow or broaden the hearing issues; and

(4) Take other action, as appropriate.

Subpart K—Special Procedures for Classified Information in Hearings

§ 110.120 Purpose and scope.

(a) This subpart contains special procedures concerning access to, and introduction of, classified information into hearings under this part.

(b) These procedures do not in any way apply to classified information exchanged between the Executive Branch and the Commission not introduced into a hearing. Such information will be declassified to the maximum extent feasible. The public statements of the Commission staff and Executive Branch will, to the extent consistent with classification requirements, reflect consideration of any such classified information.

§ 110.121 Security clearances and access to classified information.

(a) No person without a security clearance will have access to classified information.

(b) Only the Commission will act upon an application for access to classified information.

(c) To the extent practicable, applications for access to classified information shall describe the information to which access is desired and its level of classification (confidential, secret or other); the reasons for requesting access; the names of individuals for whom access is requested; and the reasons why access is requested for those individuals.

(d) The Commission will consider requests for appropriate security clearances in reasonable numbers; conduct its review and grant or deny these in accordance with Part 10 of this chapter; and make a reasonable charge to cover costs.

(e) The Commission will not grant security clearances for access to classified information, unless it determines that the available unclassified information is inadequate on the subject matter involved.

(f) When an application demonstrates that access to classified information not introduced into a hearing may be needed to prepare a participant's position on the hearing issues, the Commission may issue an order granting access to this information to the participant, his authorized representative or other persons. Access will be subject to the conditions in paragraphs (e) and (j) and will not be granted unless required security clearances have been obtained.

(g) Once classified information has been introduced into a hearing, the Commission will grant access to a participant, his authorized representative or such other persons as the Commission determines may be needed by the

participant to prepare his position on the hearing issues. Access will be subject to the conditions in paragraph (e) and (j) and will not be granted unless required security clearances have been obtained.

(h) For good cause, the Commission may postpone action upon an application for access to classified information.

(i) The Commission will grant access to classified information only up to the level for which the persons described in paragraphs (f) and (g) of this section are cleared and only upon an adequate commitment by them not to disclose such information subject to penalties as provided by law.

(j) The Commission will not in any circumstances grant access to classified information:

(1) Unless it determines that the grant is not inimical to the common defense and security; and

(2) Which it has received from another Government agency, without the prior consent of the originating agency.

(k) Upon completion of a hearing, the Commission will terminate all security clearances granted pursuant to the hearing and may require the disposal of classified information to which access has been granted or the observance of other procedures to safeguard this information.

§ 110.122 Classification assistance.

On the request of any hearing participant or the presiding officer (if other than the Commission), the Commission will designate a representative to advise and assist the presiding officer or the participants with respect to security classification of information and the protective requirements to be observed.

§ 110.123 Notice of intent to introduce classified information.

(a) A participant shall seek the required security clearances, where necessary, and file with the Secretary a notice of intent to introduce classified information into a hearing at the earliest possible time after the notice of hearing.

(b) If a participant has not filed a notice of intent in accordance with this section, he may introduce classified information only if he gives to the other participants and the Commission prompt written notice of intent and only as permitted by the Commission when it determines that the public interest will not be prejudiced.

(c) The notice of intent shall be unclassified and, to the extent consistent with classification requirements, state:

(1) The subject matter of the classified information, which it is anticipated will be involved;

(2) The highest level of classification of the information (confidential, secret or other);

(3) When it is anticipated that the information would be introduced; and

(4) The relevance and materiality of the information to the hearing issues.

§ 110.124 Rearrangement or suspension of a hearing.

When a participant gives notice of intent to introduce classified information and other participants do not have the required security clearances, subject to § 110.121, the Commission may:

(a) Suspend or rearrange the normal order of the hearing to give other participants an opportunity to obtain the required security clearances with minimum delay in the conduct of the hearing; or

(b) Take such other action as it determines to be in the public interest.

§ 110.125 Unclassified statements required.

(a) It is the obligation of hearing participants to introduce information in unclassified form wherever possible, and to declassify, to the maximum extent feasible, any classified information introduced into the hearing. This obligation rests on each participant whether or not any other participant has the required security clearances.

(b) When classified information is offered for introduction into a hearing:

(1) The participant offering it shall, to the extent consistent with classification requirements, submit to the presiding officer and other participants an unclassified statement describing the substance of the classified information as accurately and completely as possible;

(2) In accordance with procedures agreed upon by the participants or prescribed by the presiding officer, and after notice to all participants and opportunity to be heard on the notice, the presiding officer will determine whether an unclassified statement may be substituted for the classified information in the hearing record without prejudice to the interest of any participant or the public;

(3) If the Commission determines that the unclassified statement (together with such unclassified modifications as it finds are necessary or appropriate to protect the interest of other participants and the public) adequately sets forth information in the classified matter which is relevant and material to the issues in the hearing, it will direct that the classified matter be excluded from the record of the hearing; and

(4) The Commission may postpone any of the procedures in this section until all other evidence has been received. However, a participant shall not postpone service of any unclassified statement required in this section.

§ 110.126 Protection of classified information.

Nothing in this subpart shall relieve any person from safeguarding classified information as required by law and rules, regulations or orders of any Government agency.

Subpart L—Rulemaking

§ 110.130 Initiation of rulemaking.

The Commission may initiate action to amend the regulations in this part on its own initiative or in response to a petition.

§ 110.131 Petition for rulemaking.

(a) A petition for rulemaking should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) The petition shall state the basis for the requested amendment.

(c) The petition may request the Commission to suspend all or part of any licensing proceeding under this part pending disposition of the petition.

(d) The Secretary will assign a docket number to the petition, place a copy in the Public Document Room and notice its receipt in the FEDERAL REGISTER.

(e) Publication may be limited by order of the Commission to the extent required by section 181 of the Atomic Energy Act.

§ 110.132 Commission action on a petition.

(a) The Commission may grant or deny the petition in whole or in part.

(b) If the petition is granted, a notice of proposed rulemaking or a notice of rulemaking will be published in the FEDERAL REGISTER.

(c) If the petition is denied, the petitioner will be informed of the grounds.

(d) Commission action on a petition will normally follow, whenever appropriate, receipt and evaluation of Executive Branch views.

(e) The Commission, in exercising the discretion authorized by section 4(a)(1) of the Administrative Procedure Act (5 U.S.C. 553(a)(1)), will decide what, if any, public rulemaking procedures will be followed.

§ 110.133 Notice of proposed rulemaking.

(a) When the Commission proposes to amend the regulations in this part, it will normally publish a notice of proposed rulemaking in the FEDERAL REGISTER.

(b) A notice of proposed rulemaking will include:

(1) The authority for the proposed rule;

(2) The substance and purpose of the proposed rule;

(3) Directions for public participation;

(4) The time and place of any public hearing; and

(5) If a hearing is to be held by other than the Commission, designating of a presiding officer and instructions for the conduct of the hearing.

(c) A notice of proposed rulemaking will be published not less than 15 days before any hearing, unless the Commission for good cause provides otherwise in the notice.

§ 110.134 Public participation.

(a) The Commission may hold an oral hearing on a proposed rule or permit any person to participate in a rulemaking proceeding through the submission of written comments.

(b) When it is in the public interest and is authorized by law, public rulemaking procedures may be omitted and a notice of rulemaking published pursuant to § 110.135.

§ 110.135 Notice of rulemaking.

(a) Upon approval of an amendment, the Commission will publish in the FEDERAL REGISTER a notice of rulemaking which includes a statement of its basis and purpose, effective date and, where appropriate, any significant variations from the amendment as proposed in any notice of proposed rulemaking.

(b) The effective date of an amendment will normally be no earlier than 30 days after publication of the notice of rulemaking, unless the Commission for good cause provides otherwise in the notice.

APPENDIX A—LIST OF NUCLEAR EQUIPMENT AND MATERIAL UNDER NRC EXPORT/IMPORT LICENSING AUTHORITY⁴

⁴Except for production and utilization facilities and the nuclear material listed in paragraphs (f), (g), and (h), applications for licenses to export the nuclear equipment and materials in this Appendix will be processed by the Department of Commerce until July 8, 1978.

(a) Nuclear reactors and specially designed or prepared parts and components therefor as follows:

(1) Reactor pressure vessels, i.e., metal vessels as complete units or as major shop-fabricated parts therefor, which are specially designed to contain the core of a nuclear reactor and are capable of withstanding the operating pressure of the primary coolant.

(2) Reactor fuel charging and discharging machines, i.e., manipulative equipment specially designed or prepared for inserting or removing fuel in a nuclear reactor.

(3) Reactor control rods, i.e., rods specially designed or prepared for the control of the reaction rate in a nuclear reactor.

(4) Reactor pressure tubes, i.e., tubes specially designed or prepared to contain fuel elements and the primary coolant in a nuclear reactor at an operating pressure in excess of 50 atmospheres.

(5) Reactor primary coolant pumps, i.e., pumps specially designed or prepared for circulating the primary coolant in nuclear reactors.

(6) Zirconium tubes, i.e., zirconium metal and alloys in the form of tubes or assemblies of tubes specially designed or prepared for use in a nuclear reactor.

(7) Reactor internals, e.g., core support structures, control rod guide tubes, thermal shields, baffles, core grid plates and diffuser plates specially designed or prepared for use in a nuclear reactor.

(8) Reactor control rod drive mechanisms, including detection and measuring equipment to determine flux levels.

(9) Any other component specially designed or prepared for use in a nuclear reactor.

(10) Specially designed or prepared parts and components for any of the above.

(b) Plants for the separation of the isotopes of source material, special nuclear material or lithium, and specially designed or prepared equipment and components therefor as follows:

(1) Uranium hexafluoride (UF₆) corrosion resistant valves.

(2) Units capable of separating isotopes of source material, special nuclear material or

lithium, such as (i) gas centrifuges, (ii) jet nozzle separation units, (iii) vortex separation units, and (iv) laser isotope separation units.

(3) Uranium hexafluoride (UF₆) corrosion resistant axial or centrifugal compressors, and specially designed or prepared seals for such compressors.

(4) Gaseous diffusion barriers specially designed or prepared for use in separating isotopes of source material, special nuclear material or lithium.

(5) Gaseous diffuser housings specially designed or prepared for use in plants for separating isotopes of source material, special nuclear material or lithium.

(6) Heat exchangers specially designed or prepared for use in gaseous diffusion plants.

(7) Any other equipment or component specially designed or prepared for use in an isotope separation plant.

(8) Specially designed or prepared parts and components for any of the above.

(c) Plants for the reprocessing of irradiated nuclear reactor fuel elements or irradiated lithium and specially designed or prepared equipment and components therefor as follows:

(1) Fuel element chopping machines, i.e., remotely operated equipment specially designed or prepared to cut, chop or shear irradiated nuclear reactor fuel assemblies, bundles or rods.

(2) Criticality safe tanks, i.e., small diameter, annular or slab tanks specially designed or prepared for the dissolution of irradiated nuclear reactor fuel.

(3) Countercurrent solvent extractors specially designed or prepared for use in a reprocessing plant.

(4) Process control instrumentation specially designed or prepared for monitoring or controlling the processing of material in a reprocessing plant.

(5) Any other equipment or components specially designed or prepared for use in a reprocessing plant.

(6) Specially designed or prepared parts and components for any of the above.

(d) Plants for the fabrication of nuclear reactor fuel elements and specially designed or prepared parts and components therefor (export only).

(e) Plants for the production of heavy water, deuterium and deuterium compounds, and specially designed or prepared

parts and components therefor (export only).

(f) Special nuclear material.

(g) Source material.

(h) Byproduct material.

(i) Deuterium (export only).

(j) Nuclear grade graphite (export only).

NOTE.—See section 110.2 for definitions of the major terms used above.

APPENDIX B—LIST OF FOREIGN FACILITIES TO WHICH NUCLEAR EQUIPMENT MAY BE EXPORTED PURSUANT TO THE GENERAL LICENSE IN § 110.21 [RESERVED]

APPENDIX C.—Categorization of nuclear material⁴

[From IAEA INFCIRC/225, Rev. 11]

Material	Form	Category		
		I	II	III*
1. Plutonium*	Unirradiated ^b	2 kg or more.....	Less than 2 kg but more than 500 g.	500 g or less.
2. Uranium-235*	Unirradiated: ^b			
	Uranium enriched to 25 pct U ²³⁵ or more	5 kg or more.....	Less than 5 kg but more than 1 kg.	1 kg or less.
	Uranium enriched to 10 pct U ²³⁵ but less than 20 pct.	10 kg or more.....		Less than 10 kg.
	Uranium enriched above natural, but less than 10 pct U ²³⁵ .			10 kg or more.
3. Uranium-233.....	Unirradiated ^b	2 kg or more.....	Less than 2 kg but more than 500 g.	500 g or less.

*All plutonium except that with isotopic concentration exceeding 80 pct in plutonium-238.

^bMaterial not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rd/h at 1 m unshielded.

^cNatural uranium, depleted uranium, and thorium should be protected in accordance with prudent management practice. As a minimum, for quantities exceeding 500 kg, these materials should be kept under constant control and secured from unauthorized removal. Transport protection should include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

^dIrradiated fuel should be protected as category I, II, or III nuclear material depending on the category of the fresh fuel. However, fuel which by virtue of its original fissile material content is included as category I or II before irradiation should only be reduced one category level, while the radiation level from the fuel exceeds 100 rd/h at 1 m unshielded.

^ePhysical security determinations will not be required for 15 g or less of plutonium, uranium-233 or high-enriched uranium, or for 1 kg or less of uranium with an enrichment between 10 and 20 pct in uranium-235.

(Sec. 161, as amended, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 16th day of May 1978.

For the Nuclear Regulatory Commission.

JOHN C. HOYLE,
Assistant Secretary of the Commission.

[FR Doc. 78-12620 Filed 5-16-78; 2:54 pm]

[3128-01]

Title 10—Energy

CHAPTER X—DEPARTMENT OF ENERGY (GENERAL PROVISIONS)

PART 1000—TRANSFER OF PROCEEDINGS TO THE SECRETARY OF ENERGY AND THE FEDERAL ENERGY REGULATORY COMMISSION

Procedures for Electric Energy Import and Export Proceedings

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of procedures for electric energy import and export cases.

SUMMARY: The purpose of this notice is to inform the public of the procedures which will be followed by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) in electric energy import and export proceedings. Until the ERA has sufficient time to promulgate its own rules and regulations, the procedures to be followed will be those of the former Federal Power Commission contained in Title 18,

Code of Federal Regulations, Part 1 et seq.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., Division of Power Supply and Reliability, Economic Regulatory Administration, Department of Energy, Room 4070—Vanguard Building, 1111 20th Street NW., Washington, D.C. 20545, 202-634-5620; or